

Non-Responsive

Note: Action items highlighted in yellow within the text of the notes

Status of CZARA Litigation - Henning

Alan updated the group on where we are on meeting the terms of a settlement agreement that we entered into with Northwest Environmental Advocates (NWEA) over Oregon's Coastal Zone Program. NWEA sued NOAA and EPA in 2009 for what they felt were violations of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). CZARA requires certain states to develop and implement coastal nonpoint source pollution control programs and requires EPA and NOAA to withhold a percentage of Clean Water Act (CWA) and Coastal Zone Management Act (CZMA) grant funds from states that fail to submit approvable programs that protect water quality.

NWEA filed the lawsuit because EPA and NOAA repeatedly found that Oregon failed to submit a fully approvable coastal nonpoint program but did not disapprove Oregon's program or withhold grant funds. Rather, EPA issued conditional approvals and outlined areas needing improvement. Key areas needing improvement in the area of forestry are 1) legacy roads; 2) buffers on small and medium fish bearing streams; 3) management on steep slopes/unstable areas; and 4) pesticide application buffers on type N streams. A pathway forward initially identified through the settlement agreement process was for the State of Oregon to issue "Implementation Ready" TMDLs that would allow them to pursue protections in addition to what is required under the state forest practices act. That effort stalled in late 2013. As a result, EPA and NOAA issued a proposed disapproval in ~~November~~ December of 2013. In response to the proposed disapproval, EPA and NOAA received 84 comment letters representing several hundred individual comments and technical references. ~~Most of~~ The majority of the comments are in support of the proposed decision. EPA and NOAA have been working over the past year to analyze and respond to comments, and revise the decision rational document based on comments received. The current agreement with NWEA states that EPA and NOAA will issue a final decision by January 30, 2015. If we disapprove their program, the state will stand to lose a percentage of their 319 and NOAA funding until the State establishes a fully approvable program ~~every year~~.

Status of ODF rulemaking for small/medium fish bearing streams – Henning

The Oregon Department of Forestry conducted a multi-year study known as RipStream to consider the effectiveness of Oregon Forest Practices on state and private forest land at protecting small and medium fish bearing streams from temperature impacts. The study found that on private lands there is a 40% probability that the protect cold water (PCW) criterion will be exceeded. ODF has been engaged in a dialogue with the Board of Forestry as well as the EQC about the findings of the RipStream study and

implications for future rule making. They are moving forward with exploring potential rule concepts as well as the development of a methodology to assess the potential effectiveness of those rules. They are also looking at where any new rule would apply based on fish habitat mapping. ODF would like to have a rule concept out in fall of 2015.

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